

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2018

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

Rev.Appl.No.164 of 2017
and
C.M.P.No.17306 of 2017
in
C.R.P.No.2584 of 2010

K.G.Krishnamoorthi (Died)

Sarada Rajagopalan (died)

1.Usha Srinivasan

2.Vasantha Ramachandran

3.R.Sundar Ganapathy सत्यमेव जयते

4.Ananda Ramasundar

5.Mathangi Narayanamurthy

6.Anupama

7.Yamuna Ganesan

... Review petitioners/

Petitioners 2 to 9 and
Claimants 3 to 5 and
7 to 10)

(legal representative of the deceased 1st petitioner in Civil Revision Petition)

(Petitioners 1 and 2 are the legal representatives of the deceased 2nd petitioner in the Civil Revision Petition)

(Cause title accepted vide Order of this Court dated 28.03.2017 by BRJ made in M.P.No.1 of 2014 in Rev.Appl.SR.48529 of 2014)

(The 3rd petitioner permitted to the power agent of petitioners 1,2 and 4 to 7 vide order of this Court dated 28.03.2017 by BRJ made in M.P.No.2 of 2014 to M.P.No.7 of 2014 in Rev.Appl.SR.No.48529 of 2014)

1.The Sub Collector,
Pollachi,
rep. by Tahsildar,
Udumalpet.

Vs

2.The Secretary,
Coimbatore Marketing Committee,
Coimbatore.

... Respondents/Respondents
(Referring Officer)

PRAYER: Review Application filed under Order 47 Rule 1 of the Code of Civil Procedure against the order passed by this Court in C.R.P.No.2584 of 2010 dated 25.04.2014.

For Petitioners : Mr.M.S.Subramanian
for Mr.N.K.Sivakumar

For Respondents: Mr.A.Madhumathi,
Additional Government Pleader (CS)
for R1

ORDER

The above Review Application has been filed to correct the revised compensation shown in the Paragraph 20 of the order dated 25.04.2014 in C.R.P.No.(NPD).2584 of 2010.

2.This mistake has crept in since the solatium amount shown in the Revised Memo of Calculation is shown as Rs.3,74,400/- instead of a sum Rs.3,77,400/- as shown in Para 20 (ii) of the Order. In view of the above, the total calculation itself has undergone a change. That apart, the following lines

found in Paragraph 20 (iii) just above the heading Revised Memo of Calculation viz., "With this basis, when we analyze the memo of calculation filed by the petitioner, there is a minor error committed in arriving at the amount. Firstly, interest on solatium has to be charged only from 19.09.2001 and not prior to that date as per the decision rendered in *Gurpreet Singh Case*. However, in the calculation memo filed by the petitioner, petitioner has calculated interest payable by the respondent on solatium from the date of decree. Therefore, if this portion of the memo of calculation filed by the petitioner is altered, the amount payable to the petitioners will be worked out as under:" shall be substituted with the following words:

"In the instant case, the Bench in its Decree in A.S.No.1101 of 1993 at Paragraph 3 has held that the petitioners are entitled to interest on Solatium from the date of possession @9% per annum for a period of one year and thereafter, at the rate of 15% till the date of deposit."

3.Today, when the matter was listed, this was brought to the notice of this Court. The learned Additional Government Pleader (CS) would also accept the error.

4.This Court in the Judgment dated 12.07.2001 in Appeal Suit No.1101 of 1993 had held that the claimants are entitled to interest on solatium from the date of possession for a period of one year at 9% per annum and thereafter, at 15% per annum till date of deposit.

5.Mr.M.S.Subramaniam for Mr.N.K. Sivakumar, learned counsel appearing on behalf of the revision petitioners has now provided Memo of Calculation showing the correct particulars. The balance compensation paid as shown in the original order will be substituted by a memo of calculation dated 01.10.2018 filed into Court today.

6.The Original Order dated 25.04.2014 in C.R.P.No.2584 of 2010 stands modified to this extent with reference to the calculation.

REVISED MEMO OF CALCULATION

Compensation amount awarded by L.A.O at Rs.15,192/- per acre for 7.16 acres	1,08,774.00
Value of trees	2100.00
Total Market Value	1,10,874.00
Addl. Amount u/s. 23 (1-A) at 12% on Rs.1,10,874/- from 06.05.1986 (the date of Sec. 4 (1) Notification) to 29.02.1988 the date of passing of award for 1 year 9 months and 24 days.	24,156.00
Solatium u/s 23 (2) at 30% on Rs.1,10,874/-	33,262.00
Total compensation awarded by L.A.O.	1,68,292.00
Market value as awarded by Sub-Court, Udumalpet at Rs.1,75,000/- per acre for 7.16 acres	12,53,000.00
Value of trees as enhanced	5,000.00

Total Market Value		12,58,000.00
Addl. Amount u/s 23 (1-A) at 12% on Rs.12,58,000/- from 06.05.1986, the date of 7 Sec.4 (1) Notification, upto 29.02.1988, the date of passing of award by L.A.O, for 1 year 9 Months and 24 days		2,74,106.00
Solatum u/s.23(2) at 30% on Rs.12,58,000/-		Rs.3,77,400.00
Total enhanced compensation awarded by Reference Court. (This amount has been confirmed by High Court, Madras while dismissing in AS No. 1101 of 1993 filed by respondents and allowing the Cross Objections of Petitioners)		Rs.19,09,506.00
Balance Compensation to be paid:		
	Market Value	12 % Addl. Amount 30% Solatium
i) Enhanced compensation	12,58,000.00	2,74,106.00 3,77,400.00
ii) Less amount awarded and deposited by L.A.O, in the Sub-Court, Udumalpet on 04.09.1988	1,10,874.00	24,156.00 33,262.00
	11,47,126.00	2,49,950.00 3,44,138.00
Total enhanced compensation after deducting LAO amount	i) Market Value	11,47,126.00
	ii) 12% Addl. Amount	2,49,950.00
	iii) 30% solatium	3,44,138.00

Total Enhanced Compensation Amount	17,41,214.00
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1.	Interest at 9% p.a. on Rs.168,292/-, (amount awarded by L.A.O) for the period from 11.03.1988, the date of possession upto 04.09.1988, the date of deposit by L.A.O (for 178 days), as per Sec.34.	7,386.00
2.	Interest at 9% p.a. on Rs.17,41,214/-, (enhanced compensation amount as awarded by Court) from 11.03.1988, the date of possession upto 10.03.1989 (for 1 year), as per Sec.28.	1,56,709.00
3.	Interest at 15% p.a. on Rs.17,41,214/- from 11.03.1989 to 25.01.1994, the date of 1 st deposit of Rs.5,42,172/- for 4 years 10 months and 14 days, as Per Sec.28	12,72,397.00
	Total (1 + 2 + 3)	14,36,492.00
	Less : The sum of Rs.5,42,172/- deposited on 25.01.1994 (1 st deposit)	5,42,172.00
	Balance Interest due after 1 st deposit	8,94,320.00
4.	Interest at 15% p.a. on Rs.17,41,214/- from 26.01.1994 to 06.06.1994, the date of 2 nd deposit of Rs.5,42,140/- for 4 months and 10 days, as per Sec.28	94,215.00
	Total	9,88,535.00
	Less : The sum of Rs.5,42,140/- deposited on 06.06.1994 (2 nd deposit)	5,42,140.00
	Balance Interest due after 2 nd deposit	4,46,395.00

Interest Calculation

5.	Interest at 15% p.a. on Rs.17,41,214/- from 07.06.1994 to 07.02.1997, the date of 3 rd deposit of Rs.10,84,345/- for 2 years and 8 months, as Per Sec.28.	6,94,485.00
	Total	11,40,880.00
	Less :The sum of Rs.10,84,345/- deposited on 07.02.1997 (3 rd deposit)	10,84,345.00
	Balance Interest due after 3 rd deposit	56,535.00
6.	Interest at 15% p.a. on Rs. 17,41,214/- from 08.02.1997 to 04.07.2002, the date of 4 th deposit of Rs.5,96,657/- for 4 years 4 months and 16 days, as per Sec.28.	11,43,237.00
	Total	11,99,772.00
	Less: The sum of Rs.5,96,657/- deposited on 04.07.2002 (4 th deposit)	5,96,657.00
	Balance Interest due after 4 th deposit	6,03,115.00
7.	Interest of 15% p.a. on Rs.17,41,214/- from 05.07.2002 to 28.05.2010 for 7 years, 10 months and 22 days, as PerSec.28	20,63,100.07
	Total Interest due	26,66,215.07
	Less : The sum of Rs 25,07,069 deposited on 28.5.2010 as per the orders of the Executing Court (Sub Court, Udumalpet) (5 th deposit)	25,07,069.00
	Balance interest due after 5 th deposit	1,59,146.07
8.	Interest of 15% p.a. on Rs.17,41,214/- from 29.05.2010 to 24.04.2014 for 3 years 10 months and 25 days the date of the orders in CRP 2584 of 2010 (the orders under Review)	10,21,233.94

Total Interest due as on 24.04.2014	11,80,380.01
Less: The sum deposited by Respondents as ordered partly in the CRP 2584 of 2010 on 27.04.2014 (6 th deposit)	11,08,234.00
Balance interest due after 6 th deposit (1)	72,146.01
Add : Interest on Rs.17,41,214/- from 28.04.2014 to 31.08.2018 for 4 years 4 months and 3 days at 15% p.a. as per orders in the decree passed by High Court, Madras in A.S.No.1101 of 1983 (2)	11,33,935.80
Add: Enhanced compensation amount (3)	17,41,214.00
Total amount of compensation due to be paid by respondents (1) + (2) + (3) as on 31.08.2018	29,47,295.81

Respondents are due to pay further interest on Rs.17,41,214/- at 15% p.a., from 01.09.2018 till the date of deposit as per Clause 3 of the Decree.

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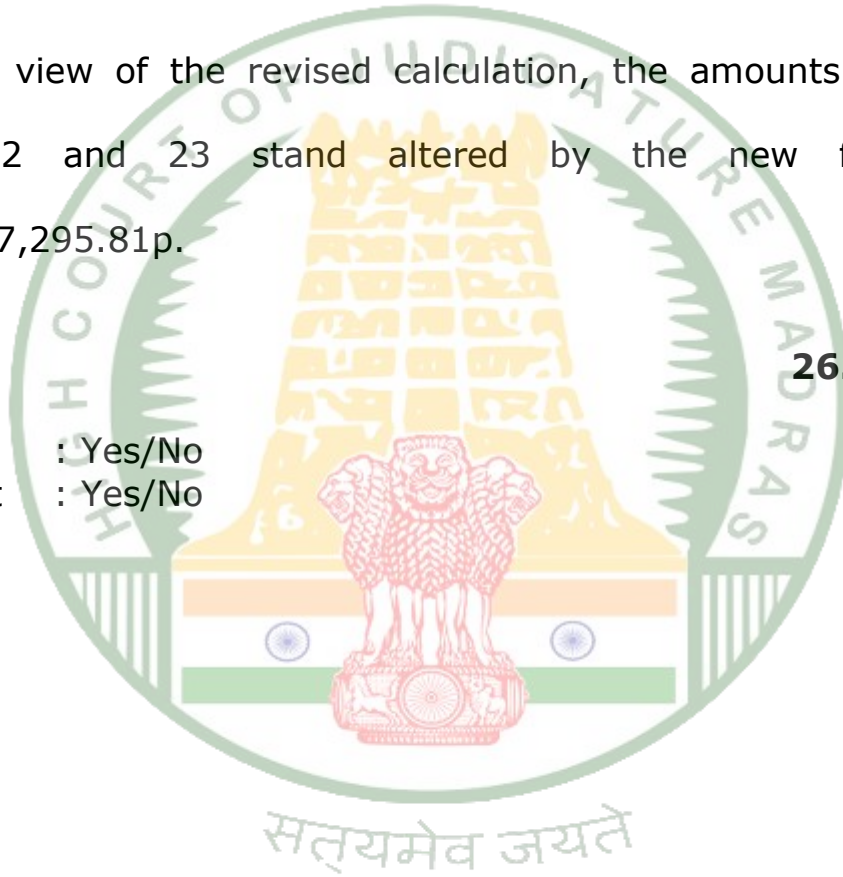
7.This Review application is allowed to the extent mention in Paragraphs 2 and 6 supra. Consequently, connected

Miscellaneous Petitions are closed to this extent. The respondents will adhere to the payment schedule as given in Para 23 of the Original order.

In view of the revised calculation, the amounts found in Para 22 and 23 stand altered by the new figure of Rs.29,47,295.81p.

26.09.2018

Index : Yes/No
Internet : Yes/No
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P.T. ASHA, J,

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